

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Permit 20441 (Application 29248)

Wesley Boyd and Joan Blades

ORDER REVOKING PERMIT

SOURCES: Two Unnamed Springs and Thomas Creek

COUNTY: Mendocino

You are hereby notified that, pursuant to sections 1410-1410.2 of the California Water Code, the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) is revoking Permit 20441 because Wesley Boyd and Joan Blades (Permittees) have failed to commence, prosecute with due diligence, and complete the work necessary to appropriate water under Permit 20441 and have not made beneficial use of the water in accordance with the permit, the Water Code, and the State Water Board's regulations.

The revocation is based upon the following facts, information and conclusions:

The State Water Board issued Permit 20441 to Andre Andreoli on May 7, 1990. The permit authorizes the direct diversion of forty five thousandths (0.045) cubic foot per second from January 1 to December 1 of each year for Domestic use, and fifteen hundredths (0.15) cubic foot per second from April 1 to November 30 of each year for Irrigation use. The maximum amount to be diverted under this permit for all uses shall not exceed 60 acre-feet per year. The permit required that construction work be completed by December 31, 1993, and that the water be applied to the authorized use by December 31, 1994.


1. The Division assigned and re-assigned the permit as follows: 1) Andre Andreoli on May 7 1990; 2) Greg Amaral LTD. Pension Plan & Trust on March 23, 1999; and 3) Wesley Boyd and Joan Blades on May 3, 2002.
2. Greg Amaral filed a Petition for Extension of Time on July 28, 2000. The petition was incomplete because a biological survey needed to be conducted and a Division letter explaining this fact was mailed on March 1, 2002. The Division forwarded the letter to the agent for the Permittees on May 9, 2002. To date, the Division has not received the biological survey.
3. The Division records (Progress Report by Permittee) show that no water had been diverted under Permit 20441 from 1990 through 2000. The Progress Report by Permittee for 1999 states that the project's construction work has not yet begun. Permittees have failed to submit a progress report since 2000.

Based on the above facts, the Division concludes that:

1. Permittees have failed to commence, prosecute with due diligence, and complete the work necessary to appropriate water under Permit 20441 and have failed to apply to beneficial use all or part of the water authorized for appropriation as contemplated in the permit and in accordance with the Water Code and the regulations of the State Water Board.
2. On March 25, 2008, Permittee was provided notice by mail of the Division's recommendation of proposed revocation. The notice provided the Permittee the opportunity to object to the proposed revocation.
3. The Permittee did not submit a request for a hearing to the Division.
4. The State Water Board has found that Permittee failed to apply the water to beneficial use under the terms and conditions of this permit.

THEREFORE, IT IS ORDERED that Permit 20441 is hereby revoked by the State Water Board pursuant to Water Code section 1675, and the water is declared to be subject to appropriation. This revocation may not result in additional water being available for new appropriations if there are applicable restrictions due to past State Water Board decisions regarding water availability.

STATE WATER RESOURCES CONTROL BOARD


James W. Kassel
Assistant Deputy Director for Water Rights

Dated:

JUN 12 2008

STATE OF CALIFORNIA
WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20441

Application 29248 of Andre Andreoli

910 West Church Street #1, Ukiah, CA 95482

filed on May 19, 1988, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

(A&B) Thomas Creek

Eel River thence

Pacific River

(C&D) Two Unnamed Springs

Thomas Creek thence

Eel River thence

Pacific Ocean

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
(A) NORTH 2,000 FEET AND WEST 100 FEET FROM SW CORNER OF SECTION 33	NE $\frac{1}{4}$ OF SE $\frac{1}{4}$	32	19N	11W	MD
(B) SOUTH 100 FEET AND EAST 1,000 FEET FROM SW CORNER OF SECTION 33	SW $\frac{1}{4}$ OF SW $\frac{1}{4}$	33	19N	11W	MD
(C) SOUTH 2,150 FEET AND WEST 100 FEET FROM SW CORNER OF SECTION 33	SW $\frac{1}{4}$ OF NW $\frac{1}{4}$	4	18N	11W	MD
(D) SOUTH 500 FEET FROM NW CORNER OF SECTION 31	NW $\frac{1}{4}$ OF NW $\frac{1}{4}$	31	19N	11W	MD

County of Mendocino

3. Purpose of use:	4. Place of use:	Section	Town- Ship	Range	Base and Meridian	Acre
DOMESTIC						
IRRIGATION	NW $\frac{1}{4}$ OF NW $\frac{1}{4}$	4	18N	11W	MD	1.5
	N $\frac{1}{2}$ OF SW $\frac{1}{4}$	30	19N	11W	MD	3
	SE $\frac{1}{4}$ OF SW $\frac{1}{4}$	30	19N	11W	MD	1.5
	W $\frac{1}{2}$ OF SE $\frac{1}{4}$	30	19N	11W	MD	3
	N $\frac{1}{2}$ OF NE $\frac{1}{4}$	31	19N	11W	MD	3
					TOTAL	12

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed (a) 0.045 cubic foot per second by direct diversion from January 1 to December 1 of each year for domestic purposes; (b) 0.15 cubic foot per second by direct diversion from April 1 to November 30 of each year for irrigation purposes. The maximum amount diverted under this permit for all uses shall not exceed 60 acre-feet per year. (0000005)
6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)
8. Construction work shall be completed by December 31, 1993. (0000008)
9. Complete application of the water to the authorized use shall be made by December 31, 1994. (0000009)
10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)
11. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
12. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.
- The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.
- The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)
13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)
14. This permit shall not be construed as conferring upon permittee right of access to points of diversion within the Mendocino National Forest. (0000022)

15. The equivalent of the authorized continuous flow allowance for any 30-day period may be diverted in a shorter time, provided there is no interference with other rights and instream beneficial uses, and provided further that all terms and conditions protecting instream beneficial uses are observed. (0000027)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: MAY 07 1990

STATE WATER RESOURCES CONTROL BOARD

Roger Schuman
61 Chief, Division of Water Rights